

August 13, 2021

VIA ECF

The Honorable Lorna G. Schofield
 United States District Court for the Southern District of New York
 40 Foley Square
 New York, NY 10007

Jane Doe, et al. v. Trump Corp., et al., 1:18-cv-9936 (LGS)

Dear Judge Schofield:

We write on behalf of all parties in the above-referenced action pursuant to the Court's August 4, 2021 Order, which directed the parties to propose "new deadlines for all dates affected by an administrative stay" (Doc. No. 315). Plaintiffs also will make a separate submission relating to certain non-party discovery issues and related deadlines.

I. Pseudonymity

As an initial matter, at the time of the Court's June 1, 2020 Order, the Court had set a deadline of June 9, 2020, for any motion Plaintiffs might elect to file in order to continue to proceed pseudonymously. (See Doc. No. 266.) The parties are meeting and conferring regarding these issues and are hopeful that they can reach an agreement that would avoid motion practice and lift pseudonymity subject to appropriate protections. Accordingly, the parties request that they provide a joint update within two weeks from today on August 27, 2021.

Mindful, however, of the Court's prior deadline, the parties further propose to set the following briefing schedule for any motion practice that may be necessary in the event that the parties are unable to reach agreement:

Plaintiffs' Motion and Opening Brief	September 3, 2021
Defendants' Opposition	September 17, 2021
Plaintiffs' Reply	September 24, 2021

Further, in the event that such motion practice becomes necessary, the parties have agreed to work cooperatively to propose any limited adjustments to the schedule proposed that may be appropriate.

II. Discovery

The parties also have met and conferred concerning discovery and case management more broadly, including with respect to certain amendments to the Third Amended Case Management Plan and Scheduling Order ("Third Amended CMO") entered by the Court on March 31, 2020 (Doc. No. 219). In crafting the following joint proposal, the parties have endeavored to propose

deadlines that will move this case along expeditiously, while also being realistic about the amount of time needed to complete each remaining phase of discovery without further extensions. The parties' proposed schedule is set forth below and relevant dates are also included in the Proposed Fourth Amended CMO attached as Exhibit A hereto.

Substantial Completion of Party Document Discovery	November 19, 2021
Completion of All Party Document Discovery	December 15, 2021
Completion of Fact Depositions & Fact Discovery including nonparty discovery	May 27, 2022
Affirmative Expert Identification	June 30, 2022
Affirmative Expert reports	August 19, 2022
Rebuttal Expert Identification	August 26, 2022
Rebuttal Reports	October 21, 2022
Close of Expert Depositions & Expert Discovery	December 16, 2022

Notwithstanding the parties' proposed schedule set forth above, it is the Defendants' position that the parties should also be permitted to disclose additional experts for trial ninety (90) days before the date set for trial or for the case to be ready for trial (if necessary), as provided for under Rule 26 of the Federal Rules of Civil Procedure.

With respect to the foregoing, Plaintiffs' position is that the joint proposed schedule set forth above provides sufficient time for disclosure and discovery of all experts, including trial experts, and should supersede the minimum timing requirements set forth in Rule 26. *See Fed. R. Civ. P. 26(a)(2)(D)* (stating that requirement of disclosure "at least 90 days" before trial applies only "[a]bsent . . . court order"). (*See also* Doc. No. 153 (joint submission proposing even earlier disclosures).) In the extraordinary event that a party can show good cause for additional expert disclosure following the close of expert discovery under the joint schedule proposed above, the parties should meet and confer and, if necessary, seek relief from the Court at that time.¹

¹ Should any such additional disclosure be permitted in the future, such disclosure should, at a minimum, include a written report in accordance with Rule 26(a)(2)(B), and an opportunity for a deposition in accordance with Rule 26(b)(4)(A).

III. Class Certification

In its May 18, 2020 Order, the Court noted that the operative case management order does not currently include a deadline for moving for class certification. (Doc. No. 264.) The parties have met and conferred and are in agreement that fact and expert discovery are likely to be necessary and appropriate in connection with such a motion, and accordingly, the parties respectfully propose the following briefing schedule for class certification:

Plaintiffs' motion for class certification and opening brief in support thereof	January 27, 2023
Defendants' opposition to Plaintiffs' motion	March 17, 2023
Plaintiffs' reply in further support of their motion	April 14, 2023

IV. Pre-Motion Conference and Status Letter for Dispositive Motions

Finally, the Third Amended CMO also scheduled a pre-motion conference on October 15, 2020 for any anticipated dispositive motions, approximately two weeks following the anticipated completion of expert discovery on September 29, 2020. In view of their joint proposals relating to class certification briefing, the parties respectfully request that the parties submit a joint status letter on January 13, 2023, following the close of expert discovery, that such status letter address the parties' proposals with respect to the timing of any anticipated dispositive motions, and that the pre-motion conference be rescheduled to a date to be determined by the Court following submission of such letter. The parties have included these proposals in Sections 13(b) and 13(c) of the proposed Fourth Amended CMO attached as Exhibit A hereto.

* * *

The parties are available to appear before the Court to discuss this joint proposal should the Court determine that such a conference would be helpful.

Respectfully submitted,

/s/ Roberta A. Kaplan

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